

**SUPERIOR COURT  
OF THE  
STATE OF DELAWARE**

**T. HENLEY GRAVES**  
*RESIDENT JUDGE*

**SUSSEX COUNTY COURTHOUSE**  
**ONE THE CIRCLE, SUITE 2**  
**GEORGETOWN, DE 19947**

October 5, 2010

James D. Nutter, Esquire  
Mooney & Nutter, P. A.  
11 South Race Street  
Georgetown, DE 19947

Paula T. Ryan, Esquire  
Department of Justice  
114 East Market Street  
Georgetown, DE 19947

**RE: Donald Dailey, Sr.**  
**Defendant ID No. 0210012813**

Dear Counsel:

Yesterday, October 4, 2010, I had the opportunity to review the Motion for Modification of Sentence based on a terminal medical condition filed by Mr. Nutter on behalf of Mr. Dailey. It was filed on September 29, 2010.

The matters raised in the Motion are sensitive to both the Defendant and his family, but as should have been done in the Lockerbie bombing case, due diligence is appropriate before acting upon the Motion.

The Department of Correction has reported that Mr. Dailey's condition is vastly improved and they could not support a Motion for Modification based upon imminent demise. Furthermore, they report that the Hospice he is involved in, is not Hospice as we know it but Hospice which is involved with all patients with serious illnesses in the infirmary.

Based upon this information from the Department of Correction, I am not going to act on any type of emergency extraordinary circumstances and the Motion is denied. I am copying this to the warden in the event there is a deterioration in Mr. Dailey's condition.

**IT IS SO ORDERED.**

Yours very truly,

/s/ T. Henley Graves

THG:baj

cc: Prothonotary  
Warden Perry Phelps, Vaughn Correctional Center